



FEDERAL ELECTION COMMISSION

WASHINGTON, D C 20463

OCT 18 2001

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Donald Trump  
c/o J. Curtis Herge, Esq.  
Herge, Sparks & Christopher, LLP  
6862 Elm Street  
Suite 360  
McLean, Va, D.C., 20005-3333

RE MUR 5020

Dear Mr. Herge:

On June 5, 2000, the Federal Election Commission notified your client, Donald Trump, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). Subsequently, a copy of the complaint was forwarded to you.

Upon further review of the allegations contained in the complaint, and information supplied by you on behalf of Donald Trump, the Commission, on October 3, 2001, found that there is reason to believe that Donald Trump violated 2 U.S.C. § 441a(a)(1)(A), a provision of the Act. The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be pursued. The Office of the General Counsel may recommend that pre-probable cause conciliation not be entered into at this time so that it may complete its investigation of the matter. Further, the Commission will not entertain requests for pre-probable cause conciliation after briefs on probable cause have been mailed to the respondent.

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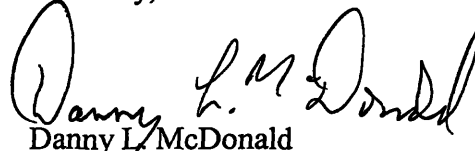
You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office within 30 days of your receipt of this letter. Where appropriate, statements should be submitted under oath. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A), unless you notify the Commission in writing that you wish the investigation to be made public.

If you have any questions, please contact Roy Q. Luckett, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

  
Danny L. McDonald  
Chairman

Enclosures  
Factual and Legal Analysis

**FEDERAL ELECTION COMMISSION**  
**FACTUAL AND LEGAL ANALYSIS**

RESPONDENT: Donald Trump

MUR: 5020

**I. GENERATION OF MATTER**

This matter was generated by a complaint filed with the Federal Election Commission by Audrey Michael. *See* 2 U.S.C. § 437g(a)(1).

**II. FACTUAL AND LEGAL ANALYSIS**

**A. Complaint**

The complaint alleges that Trump Hotels and Casino Resorts, Inc. ("Trump Corporation") and four of its executives, Donald J. Trump, Mark Brown, Lawrence Mullin and Fred Buro have violated the Act and the Commission's regulations by improperly soliciting contributions from employees of the Trump Corporation. The complaint further alleges that "in all cases, employees of these corporations were compelled by senior executives to give to the Gormley Committee in violation of the Federal Election Law prohibiting 'bundling.'" Complainant refers to 2 U.S.C. § 441a(a)(8) and 11 C.F.R. § 110.6(b)(2), which provide that no individual may receive a contribution on behalf of a candidate for Federal office while acting as a representative of a corporation

Regarding the bundling allegation, complainant asserts that Trump Hotels and Casino Resorts, through certain executives, collected contribution checks from employees and presented the checks to Mr Gormley. Specifically, complainant avers that the Trump

Corporation held a fund-raiser to benefit William Gormley, a candidate for the U.S. Senate on March 27, 2000. In connection with this event, the complaint adds that “Mr. Mark Brown, Mr. Lawrence Mullin, and Mr. Fred Burro contacted various employees of the Trump Corporation and solicited and received contributions from 32 employees for a total of \$28,800.” The checks then were turned over to Mr. Donald Trump who presented them to Gormley.”

#### **B. Response**

On June 30, 2000, Donald J. Trump submitted a response to the complaint. The response addresses four facets of the complaint. First, Trump avers that he personally sponsored, paid for, and hosted in his residence the March 27, 2000 reception for William L. Gormley. Specifically, Trump asserts that he sponsored and hosted the reception in his individual capacity; not as Chairman of the Trump Corporation. In addition, Trump states that he was not reimbursed for the costs of the invitations, food and beverages.

Second, Trump argues that no executive of the Trump Corporation or its subsidiaries collected or received a contribution to the Gormley Committee from any other employee of the Trump Corporation or its subsidiaries. According to Trump, contrary to Ms. Michael’s allegation that “Mr. Mark Brown, Mr. Lawrence Mullin and Mr. Burro (sic) contacted various employees of the Trump Corporation and solicited and received contributions from 33 employees,” no employee of the Trump Corporation or its subsidiaries gave Brown, Buro, Mullin, or Trump money for their respective contribution to the Gormley Committee. Trump explains that Gormley campaign aides staffed a table in the foyer of Donald Trump’s residence during the March 27, 2000 event, to whom reception attendees delivered their individual checks to the Gormley campaign aides

Third, Trump argues that he did not present checks from employees of the Trump Corporation or its subsidiaries to William L. Gormley. Trump denies the allegation that Brown collected contribution checks from employees of Trump Hotels & Casino Resorts, Inc. and turned them over to Mr. Trump, who in turn presented them to Mr. Gormley. Trump asserts that “[n]either Mr. Brown, nor any other individual, gave Trump his or her, or any other person’s contribution check to Gormley for Senate.”

Finally, Trump avers that he did not compel, pressure, or even recommend to any subordinate that he or she should attend the reception, that he or she should contribute to the Gormley Committee, or that he or she should contribute a specific amount to the Gormley Committee. Trump notes in his affidavit that he informed Brown, Buro, and Mullin that employees of the Trump Corporation and its subsidiaries were welcome to attend the Gormley reception whether or not they contributed to the Gormley Committee. In addition, Trump asserts that Brown, Buro, and Mullin each told members of their respective “executive committees” that a contribution was not a requirement or a condition to attending the reception. Trump’s affidavit adds that approximately 100 persons attended the March 27, 2000 reception.

### **C. Applicable Law**

Under the Act, no person shall make contributions to any candidate and his authorized committees regarding any election for Federal office, which, in the aggregate, exceed \$1,000. 2 U.S.C. § 441a(a)(1)(A)

The cost of invitations, food and beverages is not a contribution where such items are voluntarily provided by an individual volunteering personal services on the individual’s premises to a candidate for candidate – related activity to the extent that the aggregate

value of such invitations, food, and beverage provided by the individual on behalf of the candidate does not exceed \$1,000 concerning any single election. 11 C.F.R. § 100.7(b)(6).

#### **D. Analysis**

Accepting Trump's position that he sponsored the event with his own personal funds, there is reason to believe that Trump violated 2 U.S.C. § 441a(a)(1)(A). Trump asserts in his response to the complaint that he paid for all of the food, beverages, and invitations associated with the event with his personal funds, not through those of Trump Hotels and Casino Resorts, Inc. As mentioned above, 11 C.F.R. § 100.7(b)(6) provides that the cost of invitations, food and beverages is not a contribution where such items are voluntarily provided by an individual volunteering personal services on the individual's residential premises (as specified at 11 CFR § 100.7(b)(4)) to a candidate for candidate related activity. The regulations also provide that the aggregate value of such invitations, food and beverages provided by the individual on behalf of the candidate must not exceed \$1,000 with respect to any single election. The Gormley Committee's disclosure reports do not report that Trump made any contributions to the Gormley campaign. Thus, Trump avoids making an excessive in-kind contribution if the total cost of the invitations, food, and beverages for the fund-raiser at his residence does not exceed \$2,000 \$1,000 for the cost of the invitations, food, and beverages; and \$1,000 as an in-kind contribution for use in the 2000 Primary Election

The information presented appears to suggest that it is likely that Trump's sponsorship for the function exceeded the \$2,000 threshold. It would seem unlikely that

Trump would expend only \$2,000 for an event that attracted at least 100 people, at that low estimate, it would mean that Mr. Trump paid an average cost of \$20 per person for food, beverages and invitations

### III. CONCLUSION

Accordingly, there is reason to believe that Donald Trump violated 2 U.S.C. § 441a(a)(1)(A).

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